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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,296	12/05/2001	Jonathan N. Howarth	SU-7231	5094

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EXAMINER

HRUSKOCI, PETER A

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,296

Applicant(s)

HOWARTH ET AL.

Examiner

Peter A. Hruskoci

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12-5-01, 3-8-02, and 1-21-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2&3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1724

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-25, drawn to a method, classified in class 210, subclass 755.
- II. Claims 26-29, drawn to a recreational body of water, classified in class 210, subclass 96.1.

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the body of water as claimed can be used to practice another materially different method such as a cleaning method.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Brenda Harvey Reg. No. 50,405 on 7-28-03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 26-29 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1724

Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al. in view of Martin et al. 6,149,819 and Theyson. Sanders et al. disclose (see col. 2 line 51 through col. 4 line 59) a method of enabling uniform control of bromine concentrations in a recreational body of water substantially as claimed. The claims differ from Sanders et al. by reciting a step for introducing into the body of water at least one N,N' -dihalo-5,5-dialkylhydantoin. Martin et al. (see col. 4 line 15 through col. 6 line 25) that it is known in the art to add hydantoin based bromines as the primary oxidizer in combination with peroxygen compounds to aid in sanitizing water from aquatic facilities. Theyson disclose (see col. 1 lines 10-56) that it is known in the art to utilize the recited dialkylhydantoins to aid in disinfecting swimming pool water. It would have been obvious to one skilled in the art to modify the method of Sanders et al. by introducing the recited dialkylhydantoins in view of the teachings of Martin et al. and Theyson, to aid in sanitizing and disinfecting the body of water. The specific concentrations and time intervals utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific body of water treated and results desired, absent a sufficient showing of unexpected results. With regard to claims 12 and 18, it is submitted that Martin et al. as applied above disclose the use of an ORP sensor and controller to maintain the ORP of the water within a desired optimum range.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is 703-308-3839. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

Art Unit: 1724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 703-308-1261. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.


Peter A. Hruskoci
Primary Examiner
Art Unit 1724

08/21/03